

Judicial Information Systems Council Meeting (JIFFY)

Meeting Minutes

Judicial Information Division

Thursday, January 16, 2014

9:30 - 11:05 am

**JIFFY Voting Members Present:**

Judge Michael Bustamante, Chair  
Judge Karen Mitchell, Vice Chair  
Judge Richard Knowles  
Greg Ireland  
Judge Stan Whitaker  
Dennis Jontz  
Judge Duane Castleberry  
Judge Alan Kirk  
Tobie Fouratt  
Jason Jones

**Non-Voting Members Present:**

Renee Cascio  
Artie Pepin  
Steve Prisoc

**Guests Present:**

Oscar Arevalo  
Deb Williamson  
Karen Janes  
Ted Bartz  
Orlando Ulibarri (video)  
Jamie Goldberg  
Frank DiMaggio (video)  
Judge Sharon Walton (video)

**JID Staff Present:**

Annie Hall  
Grace Catanach  
Pat Mente  
Tom Feilmeier  
Trixi Bubemyre

**I. Approval of Agenda.** Judge Bustamante called the meeting to order at 9:30 am. The order of the agenda was changed as some of the JIFFY members had to attend another meeting.

**II. Budget and Revenue.**

**JID Revenue Pipeline.** Oscar Arevalo presented the “ *JID Revenue Pipeline* ” and reported that it had been necessary to do a (ROB) realignment of budgets, ( which consisted of moving SCAF admin funds over to CMS) in order to insure sufficient funds are available for the BCMC rollout. Page 4 reflects the estimated fund balance at the end of December 2013. It is at \$935,324 but after the payment of pending expenses the total will be closer to \$400,000. Mr. Arevalo explained that \$52,400.00 of the E-filing Revenue on page 8 is being used for contractual

expenses. The figures on page 12 reflect the decreasing of SCAF funds in order to increase the CMS contractual services.

- Mr. Arevalo referred to the handout entitled “*FY2014 Metro Court Deposits to SCAF Analysis*” and explained that the deposits for June are broken up into two parts and this this does not reflect what was collected in December because the current figures are sent in January 2014. Mr. Arevalo explained that the financial reports that come out of Odyssey determine how the funds that are collected are dispersed. Judge Mitchell questioned the disparity between the funds collected by the Magistrate Courts and Metropolitan Court. Metropolitan Court has about half as many cases as all of the magistrate courts combined and the funds collected from Metropolitan Court are significantly less than half of the funds collected in the magistrate courts for the last six months. A discussion ensued as to possible reasons for the disparity and the issue will be taken up after the Metropolitan rollout.

### **III. Purchase Requests.**

**13<sup>th</sup> District Request to Replace 13 FTRs.** Ted Bartz from the 13<sup>th</sup> Judicial District Court requested permission to use monies that the 13<sup>th</sup> District had obtained from the State Legislature for courtroom technology to upgrade their failing FTR equipment. Steve Prisoc stated that if JID was properly funded by the legislature all courthouse FTRs would be supplied by JID. Ted Bartz explained that JID will arrange to get all of the FTR backup offsite every night to the DR site.

**Judge Knowles moved to approve the request by the 13<sup>th</sup> Judicial District Court to purchase 13 new FTRs with monies obtained from the State Legislature in the amount of \$40,073.45. Judge Mitchell seconded. No opposition noted. Motion carried.**

### **IV. Review and Approval.**

**Update on Legislative Judicial IT Initiatives.** Artie Pepin reported that AOC received recommendations on the budget that will be in HB2 from DFA and LFC. AOC had requested statewide special appropriations in the amount of \$709,100 to purchase IT equipment, software and vehicles. LFC recommended \$116,000 and DFA recommended \$341,500. Section 7 in HB2 is Data Processing and AOC

requested for cyber security enhancements \$248,000 which LFC did not recommend anything and DFA recommended \$100,000. AOC requested \$195,000 for a citizen web portal for consolidating online services. LFC did not recommend anything and DFA recommended \$195,000. AOC requested \$270,000 for statewide court active network implementation and no money was recommended by LFC or DFA for that initiative. AOC requested \$150,000 for an Odyssey interface with PeopleSoft which LFC recommended in full and DFA did not recommend.

**Proposed JID Non-disclosure Agreement.** Steve Prisoc reported that he had written a new non-disclosure agreement with the help of Artie Pepin. It was reviewed by AOC Chief Counsel, Fern Goodman and AOC Management Team. It replaces the FACTS non-disclosure agreement. It is designed to satisfy JID's contractual agreement with Tyler not to violate or disclose Tyler's trade secrets and intellectual property. This document is also designed to safeguard the intellectual property of all of the courts in New Mexico.

***Action Item: Steve Prisoc to email the Proposed Non-disclosure Agreement to the members of JIFFY for review at the March meeting.***

**Provisional Release of Electronic Court Records.** Steve Prisoc presented the handout entitled "*New Mexico Judicial Branch Provisional Release of Electronic Court Records Policy*". Mr. Prisoc reported that the copy presented with the strikeouts is the original document that was written in 2004. The proposal is to delete the sections with the strike outs and add the parts which are underlined. Data requests are coming in from companies who are not going to sell the data but plan to post it online in order to attract subscribers or to expose their users to advertising. Mr. Prisoc emphasized that the wording in Roman numeral one was changed from *sold* to *distributed* for the reasons cited above. Data can no longer be provided on magnetic diskette.

Dennis Jontz asked if this policy was totally inconsistent with what JIFFY had decided after a long study a few years ago. Mr. Jontz stated that he thought that there was a specific vote which was debated and outside experts were brought in to

develop a policy to provide bulk data. This document says that JID will not provide the bulk data and the group as a whole stated that JID would provide the bulk data, but that the specific policy would be revisited. Mr. Jontz thought that a committee was going to be appointed to examine the policy.

Artie Pepin stated that Mr. Jontz was correct and this revision of the policy is not meant to settle the issue. AOC is operating under the current policy and the changes are simply to allow AOC to operate more intelligently in the 2014 environment. Mr. Pepin believes that the Supreme Court is still interested in the development of the policy and that the consensus by JIFFY was to wait until all of the courts were running on Odyssey so that there is universal access to the information. A discussion of who, when and how the data would be released could resume when all of the courts were running on Odyssey.

Mr. Jontz stated that he objected to adding specifically that AOC will not sell the data for commercial use and this is directly inconsistent with AOC's policy. Mr. Jontz stated that he does not mind someone modifying it until JIFFY is ready to look at the entire issue, but this goes a step beyond that; this steps us back affirmatively. Mr. Jontz stated that he did not feel this was right considering the massive amount of time that has been spent on this issue. Some people spent 40-50 hours on that whole process.

Mr. Pepin stated that he believed that the intent of the courts in 2004 was to prevent sale for commercial use and what this document does by exclusion is to allow transfer of bulk data for example to academic institutions and other public enterprises.

Judge Knowles discussed changing some of the wording in order to avoid claims that this policy infringes on the 1<sup>st</sup> Amendment rights of the person or group requesting the data. Judge Knowles proposed not allowing the data to be redistributed at all due to quality control issues. Judge Knowles recommended that the policy state what AOC will allow access to as opposed to what will be denied. When there is distribution of bulk materials, any redistribution has the risks associated with quality control.

Mr. Jontz stated that in 2007, a member of the Supreme Court called him and asked if he was paying attention to this issue, expressed an interest in bulk sales and confirmed with Mr. Jontz that he was participating in the this issue. Mr. Jontz stated that he feels that the courts are affirmatively regressing without justification and is not in favor specifically, of withholding the data from commercial users. With any data, once data is printed or saved even to your own computer, it has to be updated or it gets outdated. It is not a unique situation for data. Mr. Jontz feels that this issue should be looked at in more detail. Now may be the time to do what the AOC was going to do ten years ago.

Steve Prisoc suggested the editorial comments from Judge Knowles be adopted and brought to a later meeting. Mr. Prisoc stated that he will continue to use the existing policy. Mr. Prisoc informed the committee that if this data was available for sale to commercial users that it would necessitate JID adding another information unit under the AOC for gathering records, scrubbing records and distributing this information. The resources are not available for JID to become a commercial data entity.

**Greg Ireland moved to approve the revised handout entitled “*New Mexico Judicial Branch Provisional Release of Electronic Court Records Policy*”. Judge Whitaker seconded. A discussion ensued which led to both Greg Ireland and Judge Whitaker withdrawing their motion to approve the revised policy. The motion was tabled pending further discussion and further rewording of the policy.**

***Action Item: Steve Prisoc to review and rewrite the handout entitled “New Mexico Judicial Branch Provisional Release of Electronic Court Records Policy” for a future meeting.***

**E-filed Self Represented Litigant Forms.** Artie Pepin presented the handout entitled “E-VERIFICATION Free Process Wording”. Pilot work is being done in the 2<sup>nd</sup> Judicial District on Self Represented Litigant Filing. Domestic Relations forms must be assigned and verified and this is not compatible with electronic filing. Mr. Pepin suggested having a pilot and adopting the format on the E-VERIFICATION handout and referring this format to the Rules Committee (that

will have subject matter jurisdiction over it). The focus is on the form being in plain English so that people who are not attorneys will understand the serious nature of what they are doing. This form can be used (as a short term solution) in lieu of ink signatures and raised seal verifications on the forms being piloted on domestic relations.

**Greg Ireland moved to approve the wording on the E-verification form for the pilot phase of the Self Represented Litigant Forms project and refer what is adopted to the Civil Rules Committee. Judge Castleberry seconded. No opposition noted. Motion carried.**

#### **V. JIFFY Subcommittee Activities.**

**Judges User Group.** Judge Mitchell reported that Odyssey Judges User Group (OJUG) met as a subcommittee. The committee is making a recommendation under rule 1-099, having to do with reopening cases with civil judgments in district court, which is a process issue and not a rule change. Rule 1-099 says that if a case is opened for specific reasons following 90 days of a judgment, there is a fee that would be assessed. The rule also states that whatever comes before the court which only requires action be taken by a court clerk, does not require a fee. In the case of writs of garnishment, those cases come in to district court, a clerk takes action on those cases and it may or may not go before the judge at a later date. Due to the use of E-filing, and what triggers fees being assessed, it is not clear when to charge the party making the request. Artie Pepin surveyed courts statewide.

OJUG's recommendation to JIFFY under Rule 1-099 are that cases are closed when a judgment is entered. An application for a writ of garnishment does *not* reopen the case. The clerk signs the writ and if no other action except the judgment on the writ is required in that case, there is no filing fee, nor is the case ever reopened. Anything else under the rule, after 90 days will require reopening the case and a filing fee assessed, unless it is a specific exception under the rule. Any additional action on the writ, such as a motion to reconsider or a motion to set aside, would require reopening the case and would require a filing fee if it is 90 days after the judgment was entered. If the case is reopened, the court would review it after six months for an activity and if there has not been an activity on the case, then the case would be closed.

Judge Mitchell stated that OJUG will not meet in February.

**Judge Mitchell moved that JIFFY adopt the recommendation of OJUG in cases under rule 1-099 relating to reopening cases with civil judgments in district court to close cases when a judgment is entered. An application for a writ of garnishment does *not* reopen the case. The clerk signs the writ and if no other action except the judgment on the writ is required in that case, there is no filing fee, nor is the case ever reopened. Anything else under the rule after 90 days, will require the case to be reopened, and a filing fee be assessed, unless it is a specific exception under the rule. Any additional action on the writ, such as a motion to reconsider or a motion to set aside, would require reopening the case and would require a filing fee if it is 90 days after the judgment was entered. If the case is reopened, the court would review after six months, for an activity and if there has not been an activity on the case, then the case would be closed. Judge Castleberry seconded. No opposition noted. Motion carried.**

**Odyssey Steering Committee.** Judge Mitchell reported that Odyssey Steering Committee met. The main issues are the Metropolitan Court Odyssey launch weekend (beginning Thursday evening) schedule and how Metropolitan Court will handle such things as video arraignments and first appearances when the AS400 will be taken off line until Sunday at 1:00 pm at which time the data entry will resume on Odyssey. The checkpoint to decide whether to switch over to Odyssey is Saturday at 2:00 pm. If the switchover cannot take place, it will take a minimum of 12 hours to bring the AS400 back up on line so that the court has the ability to function on Monday. In-custodies were discussed at length and the question of how Metropolitan Court would deal with those situations over the weekend. One suggestion was to ask the 2<sup>nd</sup> District Court to open those cases. The issue is generating a case and getting that information. Metropolitan Court has manual processes (hardcopies) in place; however the concern centered on areas such as case number assignments.

There will be 40-45 magistrate clerks to assist with go-live, starting Monday throughout the Metropolitan Court, and 11 clerks plan to be on site Sunday. Artie



Pepin indicated that the Magistrate budget will pay for travel and per diem for those clerks and Metropolitan Court will take care of the cost of the hotel. The financial forecast through June 30, 2014 for this project is approximately 3.125 million dollars which started as a 2.3 million dollar project. Much of the extra monies were used for contractor development, adding Clerks Edition and moving the go-live date to February 2014 from the original plan of having the rollout in of October 2013.

Judge Mitchell stated that Odyssey V.13 will be deployed statewide January 24. Traffic Arraignment (TA) is approximately 90% complete, and there is some functionality in TA that exists in Metropolitan Court that will not be available in Odyssey. The major function that will not be available after go-live in Odyssey is that the citation number will need to be filled in manually on a traffic citation. In the AS400 the citation number would auto fill on a traffic ticket. Odyssey does not possess that capability at this time.

The Traffic Arraignment process has been demonstrated twice in Metropolitan Court. The concern was that the judges were not adequately informed of the demonstrations. Tom Feilmeier will meet with the chief judge to set up a time to do a third demonstration that will hopefully be convenient for the majority of the judges to attend.

Judge Mitchell explained that Metropolitan Court has expressed frustration at what is perceived to be last minute surprises and managing costs and resources for any last minute surprises. One example is the concern that Judge Altwies expressed regarding the travel expenses for the magistrate clerks who would be assisting with go-live. JID has also expressed frustration in that they feel that they have been as clear and forthright as possible about keeping Metropolitan Court informed of all aspects of the project. Judge Mitchell believes that there is 100% commitment by all parties to have Odyssey rolled out by March 3, 2014.

Judge Mitchell stated that OSC will not meet in February.

**VI. Future Meetings.** Judge Bustamante stated that JIFFY will not meet in February. The next JIFFY meeting will be held on March 20, 2014, 9:30 am at the Judicial Information Division in Santa Fe.



**VII. Adjourn.** Judge Bustamante adjourned the meeting at 11:05 am.